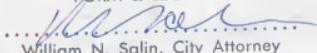


1 BILL NO. S-79-08-29

2 SPECIAL ORDINANCE NO. S- 152-793 AN ORDINANCE approving a contract for  
4 Street Improvement Resolution No. 5841-79  
5 between the City of Fort Wayne, Indiana  
6 and Brooks Construction Company, Contractor  
7 for resurfacing streets in 1st District.8 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE,  
9 INDIANA:10 SECTION 1. That a certain contract, dated July 30, 1979, between  
11 the City of Fort Wayne, Indiana, by and through its Mayor and the Board of  
12 Public Works, and Brooks Construction Company, Contractor, for:13 resurfacing streets in 1st District: Masterson Ave.,  
14 Suttenfield St., Lumbard St., Lillie St. and Pontiac  
15 St.,16 under Board of Public Works Street Improvement Resolution No. 5841-79, at  
17 a total cost of \$193,732.50, all as more particularly set forth in said  
18 contract which is on file in the Office of the Board of Public Works and  
19 is by reference incorporated herein and made a part hereof, be and the  
20 same is in all things hereby ratified, confirmed and approved.21 SECTION 2. That this Ordinance shall be in full force and effect  
22 from and after its passage and approval by the Mayor.23   
24 Councilman25  
26  
27  
28  
29 APPROVED AS TO  
30 FORM & LEGALITY31   
32 William N. Salin, City Attorney

Read the first time in full and on motion by Hinga, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock M., E.S.T.

DATE: 8-14-79.

Charles W. Westerman  
CITY CLERK

Read the third time in full and on motion by Hinga, seconded by Huntar, and duly adopted, placed on its passage.

PASSED ~~(E.O.T.)~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>			<u>1</u>	
<u>BURNS</u>	<u>X</u>				
<u>HINGA</u>	<u>X</u>				
<u>HUNTER</u>	<u>X</u>				
<u>MOSES</u>	<u>X</u>				
<u>NUCKOLS</u>				<u>X</u>	
<u>SCHMIDT, D.</u>	<u>X</u>				
<u>SCHMIDT, V.</u>	<u>X</u>				
<u>STIER</u>	<u>X</u>				
<u>TALARICO</u>	<u>X</u>				

DATE: 8-28-79

Charles W. Westerman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as  
(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE  
(RESOLUTION) NO. J-152-79 on the 28th day of August, 19\_\_\_\_\_.  
ATTEST: (SEAL)

Charles W. Westerman

CITY CLERK

Winfred C. May Jr.

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th  
day of August, 1979, at the hour of 11:30 o'clock A.M., E.S.T.

Charles W. Westerman

CITY CLERK

Approved and signed by me this 4th day of September, 1979,  
at the hour of 3 o'clock P.M., E.S.T.

Robert S. Arnberg  
MAYOR

Bill No. S-79-08-29

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on Public Works to whom was referred an Ordinance  
approving a contract for Street Improvement Resolution No. 5841-79  
between the City of Fort Wayne, Indiana and Brooks Construction  
Company, Contractor for resurfacing streets in 1st District

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance Do PASS.

WILLIAM T. HINGA - CHAIRMAN

PAUL M. BURNS - VICE CHAIRMAN

FREDRICK R. HUNTER

DONALD J. SCHMIDT

JAMES S. STIER

8-28-79  
DATE

CONCURRED IN

CHARLES W. WESTERMAN, CITY CLERK

67-255-10

# CONTRACT

7-30-79

This Agreement, made and entered into this 30 day of July, 19 79  
by and between BROOKS CONSTRUCTION COMPANY

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, herein-  
after called "City," under and by virtue of an act of the General Assembly of the State of Indiana,  
entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory  
and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to im-  
prove by resurfacing and restoring pavement on Masterson Avenue, Suttenfield Street,

Lumbard Street, Lillie Street, and Pontiac Street, as shown on Improvement  
Resolution No. 5841-79 attached. These streets are located in the 1st  
Councilmanic District.

by grading and paving the roadway to a width of XXXXXX feet with XXXXXX  
XXXXXX  
upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a  
good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improve-  
ment Resolution No. 5841-79 and attached hereto and by reference made a part hereof.

At the following prices:

Pavement Removal	Four dollars and fifty cents per square yard	4.50
H.A.C. #53 Base	Twenty dollars and no cents per ton	20.00
H.A.C. #9 Binder	Twenty-one dollars and no cents per ton	21.00
H.A.C. #11 Binder	Twenty-three dollars and no cents per ton	23.00
H.A.C. A-2 Surface	Twenty-four dollars and no cents per ton	24.00
Joint & Crack Sealer	Eight hundred dollars and no cents per ton	800.00
Water Valves - Adjust & Set to Grade	Seventy dollars and no cents per each	70.00
C.B.'s - Adjust & Set to Grade	One hundred and seventy-five dollars and no cents per each	175.00
M.H.'s - Adjust & Set to Grade	One hundred and seventy-five dollars and no cents per each	175.00
New Standard C.B.'s (complete)	One thousand, one hundred dollars and no cents per each	1,100.00
New Standard Inlets (complete)	Five hundred and fifty dollars and no cents per each	550.00
New Standard M.H.'s (complete)	Nine hundred dollars and no cents per each	900.00
TOTAL	One hundred and ninety-three thousand, seven hundred and thirty-two dollars and fifty cents	\$193,732.50

The Contractor will furnish immediately a certificate from the Industrial Board of  
the State of Indiana, that he has complied with Sections 5, 68, 69 of the Workmen's  
Compensation Act, approved March 1<sup>st</sup>, 1929, in accordance with Section 14 of the  
Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.)

A copy of General Ordinance No. G-34-79 (as amended) concerning discriminating in

by grading and paving the roadway to a width of ~~XXXXXXXXXXXXXX~~ feet with ~~XXXXXXXXXXXXXX~~

~~XXXXXXXXXXXXXX~~

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement attached hereto and by reference made a part hereof.

ment Resolution No. 5841-79 ~~XXXXXXXXXXXXXX~~ per cubic yard per cubic foot

At the following prices:

Pavement Removal	Four dollars and fifty cents per square yard	4.50
H.A.C. #53 Base	Twenty dollars and no cents per ton	20.00
H.A.C. #9 Binder	Twenty-one dollars and no cents per ton	21.00
H.A.C. #11 Binder	Twenty-three dollars and no cents per ton	23.00
H.A.C. A-2 Surface	Twenty-four dollars and no cents per ton	24.00
Joint & Crack Sealer	Eight hundred dollars and no cents per ton	800.00
Water Valves - Adjust & Set to Grade	Seventy dollars and no cents per each	70.00
C.B.'s - Adjust & Set to Grade	One hundred and seventy-five dollars and no cents per each	175.00
M.H.'s - Adjust & Set to Grade	One hundred and seventy-five dollars and no cents per each	175.00
New Standard C.B.'s (complete)	One thousand, one hundred dollars and no cents per each	1,100.00
New Standard Inlets (complete)	Five hundred and fifty dollars and no cents per each	550.00
New Standard M.H.'s (complete)	Nine hundred dollars and no cents per each	900.00
TOTAL	One hundred and ninety-three thousand, seven hundred and thirty-two dollars and fifty cents	\$193,732.50

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.)

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5841-79 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally

and in all respects completed on or before Aug. 15, 1979 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said

date \_\_\_\_\_, 19\_\_\_\_ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even *prima facie* evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 12th  
day of July, 1979

ATTEST:

*Donald M. Clegg*  
Corporate Secretary

City of Fort Wayne, By and Through:

BROOKS CONSTRUCTION COMPANY

BY: *Peter J. Bush*

ITS: Contractor, Party of the First Part.

ATTEST:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Secretary and Clerk

Its Board of Public Works and Mayor.

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY

BILL NO. G-78-10-41 (as amended)

GENERAL ORDINANCE NO. G-34-78 (as amended)

AN ORDINANCE amending Chapter 15 of the Code of the City of Fort Wayne, Indiana of 1974.

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Section 15-13 "Employment under Municipal Contract," Article III, Chapter 15 of the Code of the City of Fort Wayne, Indiana of 1974 is amended to be and read as follows, to wit:

"Sec. 15-13 Same - Under Municipal Contract.

15-13-1 Definitions. As used in this Section, the following words have these meanings:

- a. The terms "Discriminates," "discriminating," "discriminatory" mean and include:
  - (1) to promote segregation or separation in any manner, to treat any person differently, or to exclude from or fail or refuse to extend to any person equal opportunities with respect to hiring, termination, compensation, or other terms, conditions or privileges of employment, because of the race, religion, sex, color, national origin or handicap of any such person;
  - (2) also, to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped employee;
  - (3) also, to fail to make reasonable accommodation to the religious observance or practice of any employee or prospective employee unless the employer can demonstrate that the accommodation would impose an undue hardship on the conduct of the employer's business;
  - (4) also, to make, print or publish, or cause to be made, printed or published any notice, statement, or advertisement with respect to employment that indicates a preference, limitation, specification or discrimination based on race, sex, religion, color, national origin or handicap;
  - (5) the following practices are not included in the meaning of "discrimination":
    - (a) for any not-for-profit association, incorporated or otherwise, organized exclusively for fraternal or religious purposes, to devote its resources to its own religion or denomination, or to give employment preference to its own members,

- (b) for any not-for-profit association, incorporated or otherwise, established for the purpose of offering or providing education, training or other social services and benefits to handicapped persons, to devote its resources to such handicapped persons with respect to such education, training or social services and benefits.
- b. The term "handicap" means and includes:
  - (1) any physical or mental impairment which substantially limits one or more of a person's major life activities; or
  - (2) a record of such an impairment, and includes,
  - (3) a person who is regarded as having such an impairment; provided that,
  - (4) this term does not include drug or alcohol abuse or addiction.
- c. The term "obstruct" means and includes the actions of any person knowingly obstructing the fair and lawful enforcement of this Article of this Chapter by coercing or intimidating any complainant or prospective complainant, or any witness to any act of discrimination as defined herein, after such person has received actual notice of a discrimination charge or has been served notice of a complaint filed.
- d. The term "retaliate" means and includes the actions of any person in discriminating against any other person with regard to, or denying any other person access to or opportunities in employment, because any such other person has opposed any practice made unlawful by this Article of this Chapter, or because such other person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this Article of this Chapter.

15-13-2 Mandatory Covenants. Every contract for or on behalf of the City of Fort Wayne for the construction, alteration or repair of any public building or public work or the performance of any other work or service shall contain provisions by which the contractor agrees, as follows:

- a. That in the performance of work under such contract or any subcontract thereunder, the contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, will not discriminate against any person who is qualified and available to perform the work to which the employment relates.
- b. That such contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor will not obstruct the enforcement of this Article of this Chapter.
- c. That such contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor will not retaliate against any person.

15-13-3 Enforcement. Enforcement of this Article of this Chapter shall be through order of the Board of Public Works, in the following manner:

- a. Whenever any member of the Board of Public Works, or whenever the Affirmative Action Officer who is assigned to help watch over public contracts has reason to believe that any of the provisions hereof have been violated, the matter may be referred to the Metropolitan Human Relations Commission for investigation and initiation of discrimination charges against the contractor or subcontractor. Cases over which the Commission has no jurisdiction shall be investigated by said Affirmative Action Officer.
- b. A final order of the Metropolitan Human Relations Commission shall be forwarded to the Board of Public Works, which may invoke one of the remedies set forth in Sub Section 15-13-4 hereof. If it is a matter over which the Metropolitan Human Relations Commission has no jurisdiction, the Board of Public Works shall conduct a hearing to determine whether there has been a breach of this Article of this Chapter. In so doing, the Board may call upon the Commission for consultation.

15-13-4 Remedies. Upon finding that a contractor or sub-contractor or any person acting on behalf of such contractor or subcontractor has violated a provision or provisions of this Article of this Chapter, whether discriminating, obstructing, retaliating, or otherwise, the Board of Works may:

- a. Deduct from the amount payable to the contractor by the City of Fort Wayne under such contract a penalty of no less than ten dollars (\$10.00) per day, per violation, nor more than one thousand dollars (\$1,000.00) per day, per violation. Each day on which a continuing violation exists, shall be deemed a separate offense; or,
- b. The Board of Works may cancel or terminate the contract, and all money due or to become due thereunder may be forfeited, for a second or any subsequent violation of this article of this Chapter.

SECTION 2. That Chapter 15, Article III, of the Code of the City of Fort Wayne, Indiana of 1974 is further amended by adding thereto a new section 15-13A, which shall be and read as follows, to wit:

"Sec. 15-13A. A verbatim copy of Sec. 15-13 may be attached as an exhibit to and incorporated in and made a part of any contract made by or on behalf of the City of Fort Wayne, Indiana for any public work; which shall constitute compliance with Sec. 15-13-2."

IMPROVEMENT RESOLUTION

FOR STREETS

NO. 5841 -1979

RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA, that it is deemed necessary to improve by resurfacing and restoring pavement as designated on the following streets to be known as:

1. Masterson Avenue - From the west curb line of Calhoun Street to the east curb line of Prince Street.
2. Suttenfield Street - From the west curb line of Lafayette St. to the east curb line of Clinton Street.
3. Lumbard Street - From the south property line of Reynolds St. to the north curb line of New Haven Avenue.
4. Lumbard Street - From the north curb line of Pittsburg Street to the south pavement line of Molitor Street.
5. Lillie Street - From the south curb line of Creighton Avenue to the north curb line of Pontiac Street.
6. Pontiac Street - From the west curb line of Calhoun Street to the east curb line of Fairfield Avenue.

with Hot Asphalt Binder (as per design mix formula)

with Hot Asphalt Top Surface (as per design mix formula)

All in accordance with the specifications on file in the office of the Department of Public Works of said City; and such improvement is now ordered.

It is hereby found by said Board of Public Works that all benefits accruing hereunder will be to the general public of the City of Fort Wayne and that no special benefits will accrue to any property owner adjoining said improvement or otherwise assessable under said improvement. The cost of said improvement shall be paid by the City of Fort Wayne, Indiana, from monies appropriated from Revenue Sharing Funds.

ADOPTED, this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

BOARD OF PUBLIC WORKS  
CITY OF FORT WAYNE, INDIANA

Henry P. Wehrenberg, Chairman

Ethel H. LaMar, Member

Max G Scott, Member

ATTEST: \_\_\_\_\_  
Secretary & Clerk

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we BROOKS CONSTRUCTION COMPANY as Principal, and the AMERICAN STATES INSURANCE COMPANY, INDIANAPOLIS, INDIANA, a corporation organized under the laws of the State of INDIANA, and duly authorized to transact business in the State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the sum of ONE HUNDRED AND NINETY-THREE THOUSAND, SEVEN HUNDRED AND THIRTY-TWO DOLLARS AND FIFTY CENTS ----- (\$193,732.50), for the payment whereof well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of the above obligation is such that

WHEREAS, the Principal did on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, enter into a contract with the City of Fort Wayne to construct

Resolution No. 5841-79  
To improve by resurfacing and restoring pavement on Masterson Avenue, Suttenfield Street, Lumbard Street, Lillie Street, and Pontiac Street, as shown on Improvement Resolution No. 5841-79 attached. These streets are located in the 1st Councilmanic District.

at a cost of \$193,732.50, according to certain plans and specifications prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

BROOKS CONSTRUCTION COMPANY  
(Contractor)

BY: Robert L. Brooks

ITS: Per

ATTEST:

Donna M. Ciletti  
(Title) Corp. Secretary

AMERICAN STATES INSURANCE COMPANY  
Surety

\*BY: Mr. Richard Long  
Authorized Agent  
(Attorney-in-Fact)

\*If signed by an agent, power of attorney must be attached

# American States Insurance Company

## INDIANAPOLIS, INDIANA

KNOW ALL MEN BY THESE PRESENTS, that American States Insurance Company, a Corporation duly organized and existing under the laws of the State of Indiana, and having its principal office in the City of Indianapolis, Indiana, hath made, constituted and appointed, and does by these presents make, constitute and appoint \_\_\_\_\_

N. RICHARD BOERGER AND RONALD L. WIGHTMAN

(Jointly or Severally)

of Fort Wayne and State of Indiana its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, contracts of indemnity and other conditional or obligatory undertakings,

provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed FIVE HUNDRED THOUSAND AND NO/100 (\$500,000.00) DOLLARS

and to bind the Corporation thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the common seal of the Corporation and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. This Power of Attorney is executed and may be revoked pursuant to and by authority granted by Section 7.07 of the By-Laws of the American States Insurance Company, which reads as follows:

"The Chairman of the Board, the President or any Vice-President shall have power, by and with the concurrence with the Secretary or any Assistant Secretary of the Corporation, to appoint Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-Fact as the business of the Corporation may require or to authorize any one of such persons to execute, on behalf of the Corporation, any bonds, recognizances, stipulations and undertakings, whether by way of surety or otherwise"

IN WITNESS WHEREOF, American States Insurance Company has caused these presents to be signed by its Vice-President, attested by its Assistant Secretary and its corporate seal to be hereto affixed this 15th day of May

A. D. 19 74

AMERICAN STATES INSURANCE COMPANY

(SEAL)

By William M. Evans  
Second Vice-President

ATTEST: Stanley L. Riegel  
Assistant Secretary

STATE OF INDIANA } SS:  
COUNTY OF MARION }

On this 15th day of May, A. D. 19 74, before me personally came

William M. Evans

being by me duly sworn, acknowledged the execution of the above instrument and did depose and say; that he is Vice-President of American States Insurance Company; that he knows the seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name

thereto by like order. And said William M. Evans further said that he is acquainted with Stanley L. Riegel and knows him to be the Assistant Secretary of said Corporation; and that he executed the above instrument.

January 10, 1977

My Commission Expires

Linda Disney

Notary Public

STATE OF INDIANA } SS:  
COUNTY OF MARION }

Thomas M. Ober

do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said AMERICAN STATES INSURANCE COMPANY, which is still in full force and effect.

This Certificate may be signed and sealed by facsimile under and by the authority of the following resolution of the Board of Directors of American States Insurance Company at a meeting duly called and held on the 15th day of December 1972.

RESOLVED: That the use of a printed facsimile of the corporate seal of the company and of the signature of an Assistant Secretary on any certification of the correctness of a copy of an instrument executed by the President or a Vice-President pursuant to Section 7.07 of the By-Laws appointing and authorizing an Attorney-in-Fact to sign in the name and on behalf of the company surety bonds, underwriting undertakings or other instruments described in said Section 7.07, with like effect as if such seal and such signature had been manually affixed and made, hereby is authorized and approved."

In witness whereof, I have hereunto set my hand and affixed the seal of said Corporation, this 27th

day of June, A. D. 19 79  
(SEAL)

Form G-1400 119-791

Thomas M. Ober  
Assistant Secretary

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

BROOKS CONSTRUCTION COMPANY

(Name of Contractor)

(Address)

a \_\_\_\_\_, hereinafter called Principal,  
(Corporation, Partnership or Individual)

and AMERICAN STATES INSURANCE COMPANY, INDIANAPOLIS, INDIANA  
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of ONE HUNDRED AND NINETY-THREE THOUSAND, SEVEN HUNDRED AND THIRTY-TWO DOLLARS AND FIFTY CENTS ----- for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, for the construction of:

Resolution No. 5841-79

To improve by resurfacing and restoring pavement on Masterson Avenue, Suttenfield Street, Lombard Street, Lillie Street, and Pontiac Street, as shown on Improvement Resolution No. 5841-79 attached. These streets are located in the 1st Councilmanic District.

at a cost of ONE HUNDRED AND NINETY-THREE THOUSAND, SEVEN HUNDRED AND THIRTY-TWO DOLLARS AND FIFTY CENTS  
(\$ 193,732.50), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

(SEAL)

ATTEST:

Donna M. Alles  
(Principal) Secretary

(Principal) Secretary

Deborah L. Thiel  
Witness as to Principal

2909 Tillman Road  
(Address)

Fort Wayne, Indiana

BROOKS CONSTRUCTION COMPANY

### Principal

BY Robert Z. Birches  
Open  
(Title)  
1123 Barthold Street  
Fort Wayne, Indiana 46808  
(Address)

Delores A. Bahl  
Witness as to Surety

1065 DELAWARE AVENUE  
(Address)

## FORT WAYNE, INDIANA

AMERICAN STATES INSURANCE COMPANY

Surety

BY Mark W. Day -  
Attorney-in-Fact  
(Authorized Agent)

NORMAN A. BOERGER INSURANCE, INC.

222 WEST BERRY STREET  
(Address)

FORT WAYNE, INDIANA

NOTE: Date of Bond must not be prior to date of Contract.  
If Contractor is Partnership, all partners should execute bond.

# American States Insurance Company

## INDIANAPOLIS, INDIANA

KNOW ALL MEN BY THESE PRESENTS, that American States Insurance Company, a Corporation duly organized and existing under the laws of the State of Indiana, and having its principal office in the City of Indianapolis, Indiana, hath made, constituted and appointed, and does by these presents make, constitute and appoint \_\_\_\_\_

----- N. RICHARD BOERGER AND RONALD L. WIGHTMAN -----

(Jointly or Severally)

of Fort Wayne and State of Indiana its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, contracts of indemnity and other conditional or obligatory undertakings,

provided, however, that the penal sum of any one such instrument executed hereunder

shall not exceed FIVE HUNDRED THOUSAND AND NO/100 (\$500,000.00) DOLLARS -----

and to bind the Corporation thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the common seal of the Corporation and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. This Power of Attorney is executed and may be revoked pursuant to and by authority granted by Section 7.07 of the By-Laws of the American States Insurance Company, which reads as follows:

"The Chairman of the Board, the President or any Vice-President shall have power, by and with the concurrence with the Secretary or any Assistant Secretary of the Corporation, to appoint Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-Fact as the business of the Corporation may require or to authorize any one of such persons to execute, on behalf of the Corporation, any bonds, recognizances, stipulations and undertakings, whether by way of surety or otherwise"

I<sup>N</sup> WITNESS WHEREOF, American States Insurance Company has caused these presents to be signed by its Vice-President, attested by its Assistant Secretary and its corporate seal to be hereto affixed this 15th day of May

A. D. 1974 ..

AMERICAN STATES INSURANCE COMPANY

(SEAL)

By William M. Evans  
Second Vice-President

ATTEST: Stanley L. Riegel  
Assistant Secretary

STATE OF INDIANA } SS:  
COUNTY OF MARION }

On this 15th day of May, A. D. 1974, before me personally came

William M. Evans

being by me duly sworn, acknowledged the execution of the above instrument and did depose and say; that he is Vice-President of American States Insurance Company; that he knows the seal of said Corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name

thereto by like order. And said William M. Evans further said that he is acquainted with Stanley L. Riegel and knows him to be the Assistant Secretary of said Corporation; and that he executed the above instrument.

January 10, 1977  
My Commission Expires

Linda Disney

Notary Public

STATE OF INDIANA } SS:  
COUNTY OF MARION }

Thomas M. Ober

do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said AMERICAN STATES INSURANCE COMPANY, which is still in full force and effect.

This Certificate may be signed and sealed by facsimile under and by the authority of the following resolution of the Board of Directors of American States Insurance Company at a meeting duly called and held on the 15th day of December 1972.

RESOLVED: That the use of a printed facsimile of the corporate seal of the company and of the signature of an Assistant Secretary on any certification of the correctness of a copy of an instrument executed by the President or a Vice-President pursuant to Section 7.07 of the By-Laws appointing and authorizing an Attorney-in-Fact to sign in the name and on behalf of the company surety bonds, underwriting undertakings or other instruments described in said Section 7.07, with like effect as if such seal and such signature had been manually affixed and made, hereby is authorized and approved."

In witness whereof, I have hereunto set my hand and affixed the seal of said Corporation, this 27th

day of June, A. D. 1977.  
(SEAL)

Thomas M. Ober

We, the undersigned committee, being appointed to prepare a schedule of the prevailing wages to be paid in connection with, ALL CONSTRUCTION AND MAINTENANCE CONTRACTS AWARDED BY THE BOARD OF WORKS, CITY OF FT. WAYNE, INDIANA, DURING THE MONTHS OF APRIL, MAY, AND JUNE, 1979.

in compliance with the provisions of CHAPTER # 319 of the acts of the GENERAL ASSEMBLY of INDIANA, 1935, have established a schedule as hereinafter set forth for the following trades to wit:

TRADES OR OCCUPATION	CLASS	RATE PER HR.	H&W	PEN	V&C	APP.	MISC.
ASBESTOS WORKER	S	12.60	55 $\frac{1}{2}$	1.25			3if
BOILERMAKER	S	13.25	1.17 $\frac{1}{4}$	1.00		3 $\frac{1}{2}$	
BRICKLAYER	S	11.14	45	50		1	4if
CARPENTER (BUILDING) (HIGHWAY)	S	10.89		6 $\frac{1}{2}$		8	2if
	S	10.23	60	60		5	2if
CEMENT MASON	S	9.70	75	80		1	
ELECTRICIAN	S	12.35	50	3 $\frac{1}{2}$ +40		6	
ELEVATOR CONSTRUCTOR	S	11.63 $\frac{1}{4}$	89 $\frac{1}{2}$	69	8 $\frac{1}{2}$	6	
GLAZIER	S	10.79		25	40	4	25¢ holiday 25¢ annuity
IRON WORKER	S	11.80	90	1.20		2	2if
LABORER (BUILDING) (HIGHWAY) (SEWER)	S-SS US	7.70-8.70	70	50		9	
	S-US-SS	8.30-9.15	70	70		9	
	S-US-SS	7.60-8.40	70	50		9	
LATHER	S	10.94		50		1	2if
HILLRIGHT & PILEDRIVER	S	11.22		6 $\frac{1}{2}$		8	2if
OPERATING ENGINEER (BUILDING) (HIGHWAY) (SEWER)	S-SS US	8.10-11.90	55	65		9	
	S-SS-US	8.16-10.87	55	65		8	
	S-SS-US	8.59-11.57	75	65		10	
PAINTER	S	9.25-10.25	50	65		12	6misc.
PLASTERER	S	10.08	60	80			
PLUMBER & STEAMFITTER	S	12.60	55	90		7	4if
MOSAIC & TERRAZZO GRINDER	S	8.75-10.80					
ROOFER	S	10.90		10			
SHEETMETAL WORKER	S	12.09	50	60		10	39¢ basic 14if
TEAMSTER (BUILDING) (HIGHWAY)	S-SS US	9.18-10.13	26.00pw	31.00pw			
	S-US	8.75 $\frac{1}{4}$ -9.35 $\frac{1}{4}$	27.50pw	31.00pw			

If any CLASSIFICATIONS ARE OMITTED IN THE ABOVE SCHEDULE, THE PREVAILING WAGE SCALE SHALL BE PAID. The above and forgoing shall be the minimum prevailing wage scale for this project as set by the wage scale committee, but in no way shall it prevent the contractor or sub-contractor from paying a higher rate of wages than set out in the schedule of wages on file.

DATED THIS 29 DAY OF MAY, 19 79

*Winton E. Rich*  
REPRESENTING GOVERNOR, STATE OF INDIANA

*Mark A. Scott*  
REPRESENTING THE AWARDING AGENT.

*Frederick M. Ries*  
REPRESENTING STATE A.F.L. & C.I.O.

EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, promotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally

assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including actions for noncompliance: PROVIDED, HOWEVER, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.



## THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

board of public works

July 2, 1979

The Common Council  
Fort Wayne, Indiana

Gentlemen and Mrs. Schmidt:

The Board of Public Works has awarded Contracts for Street Resolution No. 5840-79 for resurfacing streets in 2nd Councilmanic District, i. e., Bolton Drive, Vance Ave., Bosworth Drive, Kenwood Ave., Glenwood Ave., Alabama Ave., Forest Valley Drive, Forest Downs Drive and Lake Forest Drive, in amount of \$143,024.00 and Street Resolution No. 5841-79 for resurfacing streets in 1st Councilmanic District, i. e., Masterson Ave., Suttenfield Street, Lumbard Street, Lillie Street and Pontiac Street, in amount of \$193,732.50 to Brooks Construction Co., Inc.

*NOT IN 1ST DISTRICT  
BUT IN 2ND DISTRICT  
BUT IN FIRST DISTRICT  
PA*

In view of the fact that Brooks Construction Co., Inc. has received both projects, which involve a large number of streets, the Board of Works is anxious that said contractor begin resurfacing of same immediately.

Therefore, Board of Works respectfully requests "Prior Approval" so that construction may begin immediately on the above.

Special Ordinance for formal approval will be submitted in the very near future.

Sincerely,

BOARD OF PUBLIC WORKS

*Henry P. Wehrenberg*  
HENRY P. WEHRENBURG, CHAIRMAN

CITY OF FORT WAYNE

*Robert E. Armstrong*  
ROBERT E. ARMSTRONG, MAYOR

ep  
APPROVED:

*William T. Gough Jr. M. J. Smith*  
*D. Schmidt* *James J. Tetzlaff* *Donald R. Hunter*  
*Virginia A. Schmidt* *John S. Puckel* *John M. Guern*  
MEMBERS OF THE COMMON COUNCIL

ATTEST:

*Charles W. Westerman*  
CHARLES W. WESTERMAN, CLERK

17  
TITLE OF ORDINANCE SPECIAL ORDINANCE - CONTRACT FOR ST. IMP. RES. NO. 5841-79, RESURE 1st DIST.

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

*1-79-08-29*

SYNOPSIS OF ORDINANCE CONTRACT FOR STREET IMPROVEMENT RESOLUTION NO. 5841-79, RESURFACING

STREETS IN 1st DISTRICT: MASTERSON AVE., SUTTENFIELD ST., LUMBAR ST., LILLIE ST. AND PONTIAC  
STREET, IN AMOUNT OF \$193,732.50. CONTRACTOR FOR PROJECT: BROOKS CONSTRUCTION CO., INC.

CONTRACT ATTACHED

PRIOR APPROVAL ACQUIRED, A COPY OF WHICH IS ATTACHED HERETO

EFFECT OF PASSAGE RESURFACING OF ABOVE-DESCRIBED STREETS

EFFECT OF NON-PASSAGE CONTINUANCE OF STREET IMPROVEMENT PROGRAM WILL BE IMPAIRED

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$193,732.50 FROM REVENUE SHARING  
& MVH FUNDS

ASSIGNED TO COMMITTEE *BD. of Works*